



First American National Bank
Nashville, Tennessee 37237

December 18, 1979

RECORDATION NO. 11321 Filed 1425

JAN 4 1980 -2 30 PM

INTERSTATE COMMERCE COMMISSION

Secretary
Interstate Commerce Commission
Washington, D C. 20423

615 748 2 000

0-004A082

JAN 4 1980
Date
Fee \$ 50.00

Dear Sir:

CC Washington

I am enclosing a Security Agreement covering railroad equipment and an Assignment of the lease of that equipment to be filed in the appropriate records of your office in accordance with 49 USC §11303 and 49 CFR §1116.

EQUIPMENT:

The name and address of the mortgagor/debtor is Everett I. Howell, Jr., 132 Ensworth Avenue, Nashville, Tennessee, 37205. The name of the mortgagee/secured party is First American National Bank of Nashville, a national banking association with its principal offices in Nashville, Tennessee, with its main office at 2700 First American Center, Nashville, Tennessee 37237.

A general description of the equipment covered by the Security Agreement is as follows:

1. 50-foot, 70-ton truck XM railway boxcars;
2. A.A.R. mechanical designation - XM;
3. number - 4;
4. Identifying marks -

LVRC 5054
LVRC 5055
LVRC 5056
LVRC 5057

INTERSTATE
COMMERCE COMMISSION
RECEIVED

5. serial numbers -

5054
5055
5056
5057

DEC 26 1979

3
ADMINISTRATIVE SERVICES
MAIL UNIT

ASSIGNMENT OF LEASE:

The name and address of the lessor is Everett I. Howell, Jr. The name of the lessee is Lamoille Valley Railroad Company, a Vermont corporation, Stafford Avenue, Morrisville, Vermont

Secretary
Interstate Commerce Commission
December 18, 1979

05661. The name of the assignee is First American National Bank of Nashville, at the same address stated above. The subject matter of the Lease is the equipment hereinabove described.

Please return the original document to Keith B. Simmons, Equire, Bass, Berry & Sims, 2700 First American Center, Nashville, Tennessee 37238.

FIRST AMERICAN NATIONAL BANK
OF NASHVILLE

BY:

Cynthia E. Bennett

Interstate Commerce Commission
Washington, D.C. 20423

1/8/80

OFFICE OF THE SECRETARY

Keith B. Simmons, Esq.
Bass, Berry & Sims
2700 First American Center
Nashville, Tennessee 37238

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 1/4/80 at 2:30pm , and assigned re-recording number(s). 11321

Sincerely yours,

Agatha L. Mergenovich
Agatha L. Mergenovich
Secretary

Enclosure(s)

SE-30
(7/79)

SECURITY AGREEMENT

JAN 4 1980 -2 30 PM

INTERSTATE COMMERCE COMMISSION

This Security Agreement is made and entered into this 11 day of ~~October~~^{NOVEMBER}, 1979, by and between Everett I. Howell, Jr., a resident of Davidson County, Tennessee (hereinafter called "Debtor"), and First American National Bank of Nashville, a national banking association with its principal offices in Nashville, Tennessee (hereinafter called "Bank").

W I T N E S S E T H:

1. Recitals. Debtor has requested that Bank make a loan to Debtor (the "Loan"), to pay a portion of the purchase price of the units of railroad equipment described herein, which will be leased initially to Lamoille Valley Railroad Company, pursuant to a Lease Agreement, dated July 24, 1979, by and between Rex Railways, Inc., (the "Agent") as principal and/or agent for Debtor and certain other parties described therein, as lessor, and Lamoille Valley Railroad Company, as lessee. The Agent will manage said equipment and said lease pursuant to a Management Agreement, in the form attached as Exhibit C to the Private Placement Memorandum dated August 31, 1979, of the Agent, pursuant to which prospective investors were offered the opportunity to participate in the Agent's Boxcar Management Program, 1979-D (the "Private Placement Memorandum"). In order to induce Bank to make the Loan, the Debtor has agreed to execute this Security Agreement to secure his obligations to Bank by the equipment purchased, said lease, said management agreement, and the Boxcar Purchase Contract hereinafter described.

2. Grant of Security. The Debtor does hereby transfer, assign, grant, bargain, sell, convey, hypothecate, and pledge to Bank, its successors and assigns, a security interest in all right, title and interest of the Debtor which presently exists or

which may hereafter arise, in, to and under the following (all of the properties in which Bank is hereby granted a security interest being hereinafter called collectively the "Collateral"):

(a) four (4) 50-foot, 70-ton truck XM boxcars with a 5,344-cubic foot capacity, bearing serial numbers LVRC 5054, LVRC 5055, LVRC 5056 and LVRC 5057, manufactured by Pullman Standard Division of Pullman Incorporated, together with (i) any and all accessories, equipment, parts and improvements now or at any time hereinafter attached or appertaining thereto, except such thereof as remain the property of the Lessee under the Lease, as hereinafter defined, and (ii) any and all substitutions, renewals and replacements for, and any additions, accessions and accumulations to, any and all of such cars (such cars, together with such accessories, equipment, parts, improvements, substitutions, replacements, additions, accessions and accumulations being hereinafter called collectively the "Cars" and severally a "Car");

(b) the lease referred to in Paragraph 1 hereof and any other lease pursuant to which any Car shall at any time be leased, together with any and all schedules and exhibits thereto (all such leases, together with such schedules and exhibits, being hereinafter called collectively the "Lease"; and all lessees thereunder being hereinafter called collectively the "Lessee"), including without limitation the right to receive and collect all rental, casualty value payments, insurance proceeds, condemnation awards and other payments now or hereafter payable to the Debtor pursuant to the Lease; and

(c) the management agreement described in Paragraph 1 hereof as if may be modified and amended from time to time and any other agreement entered into by Debtor from time to time for the management of the Cars and the Lease (all such agreements, together with all exhibits and schedules thereto being hereinafter called collectively the "Management Agreement"); and

(d) Boxcar Purchase Contract substantially in the form of Exhibit A to the Private Placement Memorandum to be executed by Debtor and Agent (the "Purchase Contract"); and

(e) to the extent not included in the foregoing clauses, all rental, issues, income and profit from the Cars.

3. Indebtedness Secured. The security interest created and granted hereby is given to secure an indebtedness for borrowed money evidenced by a Promissory Note of even date herewith in the principal amount of \$181,770 executed by Debtor and his wife, M. Caroline Howell, as makers, payable to the order of Bank as provided therein, together with any renewals or extensions thereof, and notes given in payment of interest thereof, and all attorney fees, court costs, and expenses of whatever kind incident to the collection of said indebtedness and the enforcement and protection of the security created hereby. The security interest and mortgage granted hereby further secures all future advances made by Bank for taxes, levies, insurance and preservation of the Collateral and all other money heretofore or hereafter advanced by Bank to or for the account of Debtor at the option of Bank, and all other present or future, direct or contingent liabilities or indebtedness of Debtor to Bank of any nature whatsoever and any extensions or renewals thereof (all of said indebtedness described in this Paragraph 3 shall hereinafter be called "Indebtedness").

4. Covenants, Representations and Warranties.
Debtor covenants, represents, warrants, and agrees as follows:

(a) The Cars are being acquired by Debtor with the proceeds of the Loan and Bank is authorized to disburse the proceeds of the Loan directly to Agent for the purchase of the Cars. Debtor will defend the Collateral against the claims and demands of all persons, and the Collateral will be free and clear of all liens and security interests;

(b) Debtor is the record and beneficial owner of all right, title, and interest in the Collateral free and clear of all liens, charges and encumbrances, except for the rights of the Lessee under the Lease and of the Agent under the Management Agreement;

(c) the Debtor has full right and power to grant a security interest in the Collateral to Bank free of any contractual provision binding on the Debtor or his assets;

(d) there is no financing statement or other filed or recorded instrument in which the Debtor is named and which the Debtor has signed or permitted to be filed or recorded covering any of the Collateral (except the financing statements or other instruments filed or to be filed in respect of the security interest provided herein);

(e) Debtor will pay the Bank all amounts secured hereby as and when the same shall be due and payable, whether at maturity, by acceleration, or otherwise, or when Bank deems itself insecure for any reason, and will perform all terms of any instrument evidencing or securing the Indebtedness or any part of it and this or any other security or loan agreement between the Debtor and Bank, and will discharge all said liabilities;

(f) Debtor will at all times keep the Cars insured as provided in the Private Placement Memorandum. Such insurance shall be in such companies as may be acceptable to Bank, with provisions satisfactory to Bank for payment of all losses thereunder to Bank as its interest may appear. Any money received by Bank under said policies may be applied to the payment of the Indebtedness, whether or not due and payable, or at Bank's option may be delivered by Bank to Debtor for the purpose of repairing and restoring the Cars. Debtor assigns to Bank all right to receive proceeds of insurance not exceeding the amount secured hereby, directs any insurer to pay all proceeds directly to Bank, and Bank is appointed Debtor's Attorney-in-Fact to endorse any draft or check made payable to Debtor in order to collect the benefits of such insurance. If Debtor fails to keep the Cars insured as required by Bank, Bank shall have the right to obtain such insurance at Debtor's expense and add the cost thereof to the other amounts secured hereby.

(g) Debtor will cause the Cars to be kept in good condition and repair and will pay and discharge all taxes, levies and other impositions levied thereon as well as the cost of repairs to or maintenance of same, and will not permit anything to be done that may impair the value of any of the Cars. If Debtor fails to pay such sums, Bank may do so for Debtor's account and add the amount thereof to the other amounts secured hereby.

(h) Debtor will pay all costs of filing fees incurred in the perfection and continuation and protection of the perfection of the security interest created hereby and the cost of filing with the Interstate Commerce Commission as required by 49 USC §11303. Bank is authorized to do all things which it deems necessary to perfect and continue perfected the security interest created hereby and to protect the Collateral, all at Debtor's expense.

(i) Debtor will not sell, exchange, lease or otherwise dispose of any of the Collateral without the prior written consent of Bank, except Debtor shall be permitted to lease the Cars pursuant to the terms of the Lease; permit any liens or security interests to attach to any of the Collateral except as created by this Agreement; permit any of the Collateral to be levied upon under any legal process; permit anything to be done that may impair the security intended to be afforded by this Agreement.

(j) The Cars will be leased to Lamoille Valley Railroad Company pursuant to the Lease Agreement described in Paragraph 1 hereof and used by Lessee in its operations. Bank will be notified upon the termination of said Lease or use or location of the Cars other than as specified in said Lease Agreement and Private Placement Memorandum.

(k) The Debtor will not, and will not permit or cause the Agent to, declare or exercise any of the remedies of the Lessor under, or accept a surrender of, or offer or agree

to any assignment, termination, modification or surrender of, the Lease (except as otherwise expressly provided in the Management Agreement), or by affirmative act consent to the creation or existence of any security interest or other lien in or on the Lease or any part thereof;

(l) the Debtor will not, and will not permit or cause the Agent to, receive or collect any rental payment under the Lease in respect of any of the Cars prior to the date for payment thereof provided for by the Lease or assign, transfer or hypothecate (other than to Bank and to the Agent under the Management Agreement) any rent payment then due or to accrue in the future under the Lease in respect of any of the Cars;

(m) the Debtor will give Bank prompt written notice of any event or condition constituting an Event of Default under the Lease if the Debtor has actual knowledge of such event or condition;

(n) the Debtor will at his own expense duly comply with and perform all the covenants and obligations of the Debtor under the Lease and will at his own expense seek to cause the Lessee to comply with and observe all the terms and conditions of the Lease and, without limiting the foregoing, at the request of Bank, the Debtor will at his own expense take such action with respect to the enforcement of the Lease, and the duties and obligations of the Lessee thereunder, as Bank may from time to time direct. Without Bank's prior consent, Debtor shall not take any action to amend, modify, or terminate the Lease or settle, adjust, compound or compromise any claims of the Debtor against the Lessee thereunder;

(o) the Debtor shall not change, or permit to be changed, the identifying letters and numbers of the Cars from such identifying letters and numbers of the Cars set forth herein, except in accordance with a statement of new

numbers to be substituted therefor which previously shall have been delivered to Bank and which shall be filed and recorded by the Debtor in like manner as this Agreement;

(p) the Debtor shall not lease the Cars, or permit the Cars to be leased, to any railroad, or pursuant to any lease of equipment, other than the railroad and the Lease set forth in Paragraph 1 hereof, except in accordance with a statement of new railroad or lease of equipment, as appropriate, which previously shall have been delivered to Bank and which shall be filed and recorded by the Debtor in like manner as this Agreement; and

(q) Debtor will at his own expense duly comply with and perform all the covenants and obligations of the Debtor under the Management and the Purchase Contract and will at his own expense seek to cause the Agent to comply with and observe all the terms and conditions of the Management Agreement and Purchase Contract. Without limiting the foregoing, at the request of Bank, Debtor will at his own expense take such action with respect to the enforcement of the Management Agreement and Purchase Contract, and the duties and obligations of the Agent thereunder, as Bank may from time to time direct. Without Bank's prior consent, Debtor shall not take any action to amend, modify, or terminate the Management Agreement or Purchase Contract or settle, adjust, compound, or compromise any claims of Debtor against Agent.

5. Application of Proceeds of Certain Prepayments.

Without regard to whether an Event of Default under Paragraph 6 hereof has occurred and is continuing, the Debtor agrees that it will pay over to Bank all moneys ("settlement moneys") paid to it pursuant to the Lease as settlement for the loss, theft, destruction or damage beyond economical repair of any Car or Cars

leased thereunder. Bank shall apply each payment of settlement moneys to the payment of the Indebtedness as the Bank may determine. From and after the date hereof the Debtor shall promptly transmit to Bank any notice or information it receives concerning loss, theft, destruction or damage beyond economical repair to Cars covered by the Lease requiring settlement payment under the Lease.

6. Events of Default. Debtor shall be in default (any of the following being herein called "Events of Default") upon failure to pay when due any amount payable hereunder, under any promissory note or any other instrument evidencing or further securing the Indebtedness, or upon failure to observe or perform any of Debtor's agreements or covenants herein contained or contained in any instrument evidencing or further securing the Indebtedness, or if any warranty, representation, or statement by Debtor contained herein or furnished in connection herewith is false or misleading, or if proceedings in which Debtor is alleged to be insolvent or unable to pay Debtor's debts as they mature are instituted by or against Debtor under any provisions of the Bankruptcy Law or any other law, or if Debtor makes an assignment for the benefit of creditors, or if Bank in good faith believes its prospect of payment and performance is impaired.

7. Remedies. In case of the happening of any Event of Default, Bank may by its agents, enter upon the premises of the Lessee (or other party having acquired the possession or use of the Cars) where any of the Cars may be and take possession of all or any part of the Cars and withdraw the same from said premises, retaining all payments which up to that time may have been made on account of rental for the Cars and otherwise, and shall be entitled to collect, receive and retain all unpaid per diem, incentive per diem, mileage or other charges of any kind earned by the Cars, and may lease or otherwise contract for use of any of the Cars; or Bank may, with or without retaking possession, sell any of the Cars, free from any and all claims of the Debtor at law or in equity, in one lot and as an entirety or in separate

lots, at public or private sale for cash or upon credit in the discretion of Bank, and may proceed otherwise to enforce its rights, all subject to any mandatory requirements of law applicable thereto. Upon any such sale, Bank may itself bid for the property offered for sale or any part thereof. Any such sale may be held or conducted at such place and at such time as Bank may specify, or as may be required by law, and without gathering at the place of sale the Cars to be sold, and in general in such manner as Bank may determine.

In case of the happening of an Event of Default, Bank also may proceed to exercise in respect of the Lease, the Management Agreement, or the Purchase Contract, and the property covered thereby and the duties, obligations and liabilities of the Lessee and/or Agent thereunder, all rights, privileges and remedies in said documents or by applicable law permitted or provided to be exercised by the Debtor, including but not limited to the right to receive and collect all rent and other moneys due or to become due thereunder and may exercise all such rights and remedies either in the name of Bank or in the name of the Debtor for the use and benefit of Bank. Bank may sell the rental reserved under the Lease or rights under the Management Agreement and Purchase Contract, and all right, title and interest of Bank with respect thereto, at public auction to the highest bidder and either for cash or on credit, Bank to give the Debtor prior written notice of the time and place of holding any such sale, and provided always that Bank shall also comply with any applicable mandatory legal requirements in connection with such sale.

No such taking of possession, withdrawal, lease or sale of the Collateral or any part thereof by Bank shall be a bar to the recovery by Bank from the Debtor of any of the Indebtedness then or thereafter due and payable, and the Debtor shall be and remain liable for the same until such sums have been realized as, with the proceeds of the Lease or sale of the Collateral, shall be sufficient for the discharge and payment in full of all the Indebtedness.

Any sale or sales pursuant to the provisions hereof, whether under the power of sale granted hereby or pursuant to any legal proceedings, shall operate to divest the Debtor of all right, title, interest, claim and demand whatsoever, either at law or in equity, of, in and to the Collateral so sold, and shall be free and clear of any and all rights of redemption by, through or under the Debtor, the Debtor hereby covenanting and agreeing that it will not at any time insist upon or plead, or take the benefit or advantage of or from, any law now or hereafter in force providing for a valuation or appraisal of the Collateral prior to any sale or sales thereof or providing for any right to redeem the Collateral or any part thereof. The receipt by Bank, or by any person authorized under any judicial proceedings to make any such sale, shall be a sufficient discharge to any purchaser of the Collateral, or of any part thereof, sold as aforesaid; and no such purchaser shall be bound to see to the application of such purchase money, or be bound to inquire as to the authorization, necessity or propriety of any such sale. In the event at any such sale the holder or holders of the Indebtedness is or are the successful purchaser or purchasers, such holder or holders shall be entitled, for the purpose of making settlement or payment, to use and apply said Indebtedness by crediting thereon the amount apportionable and applicable thereto out of the net proceeds of such sale.

Bank may exercise any or all of its remedies provided herein or available under applicable law either before or after proceeding against Debtor or any co-obligor with Debtor for the amount of the Indebtedness owed, and Bank shall not be required to proceed hereunder unless it so elects.

8. Application of Proceeds. If Bank shall exercise any of the powers conferred upon it by Sections 5 and 6 hereof, all payments made by the Debtor to Bank, and the proceeds of any judgment collected from the Debtor by Bank, and the proceeds of every sale or lease by Bank of all or any of the Collateral, together with any other sums which may then be held by Bank under any of the provisions hereof, shall be applied by Bank to the payment in the following order of priority, (a) of all proper charges, expenses or advances made or incurred by Bank in accordance with the provisions of this Agreement and (b) of the interest then due, and of the principal of the Indebtedness, whether or not the Indebtedness shall have matured by its terms, all such payments to be in full, if such proceeds shall be sufficient, and, if not sufficient, then first to interest and then to principal. In the event that, after applying all such sums of money realized by Bank as aforesaid, there shall remain any amount due to Bank under the provisions hereof, the Debtor agrees to pay the amount of such deficit to Bank. In the event that, after applying all such sums of money realized by Bank, as aforesaid, there shall remain a surplus in the possession of Bank, such surplus shall be paid to the Debtor.

9. Remedies Cumulative; Subject to Mandatory Requirements of Law. The remedies in this Agreement provided in favor of Bank shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity; and such remedies so provided in this Agreement shall be subject in all respects to any mandatory requirements of law at the time applicable thereto, to the extent such requirements may not be waived on the part of the Debtor.

10. Power of Attorney. The Debtor hereby constitutes and appoints Bank the attorney-in-fact of the Debtor with full power of substitution for the purposes of carrying out the provisions of this Agreement and in its name, place and stead to ask, demand,

14. Waiver. Bank may waive any default before or after the same has been declared without impairing its right to declare a subsequent default hereunder, this right being a continuing one.

15. Severability. If any provision of this Agreement is held invalid, such invalidity shall not affect the validity or enforceability of the remaining provisions of this Agreement. This Agreement shall inure to the benefit of Bank's successors and assigns and shall bind Debtor's heirs, representatives, successors and assigns.

IN WITNESS WHEREOF, Debtor and Bank have caused this Agreement to be executed on the day and date first above written.

Everett I. Howell, Jr.
EVERETT I. HOWELL, JR.

FIRST AMERICAN NATIONAL BANK
OF NASHVILLE

BY: James M. Wells A.V.P.

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

On this 11 day of ^{Nov.} ~~October~~, 1979, before me personally appeared, Everett I. Howell, Jr., to me known to be the person described in and who executed the foregoing instrument and he acknowledged that he executed the same as his free act and deed.

Patricia A. Wilcher
Notary Public

My Commission Expires: 10-17-81

(SEAL)

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

On this 17 day of ^{Nov.} ~~October~~, 1979, before me personally appeared James M. Wells, to me personally known, who being by me duly sworn, says that he is the Asst. V.P. of First American National Bank of Nashville, a national banking association, that said association does not have a corporate seal, that said instrument was signed on behalf of said national banking association by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national banking association.

Patricia A. Wilcher
Notary Public

My Commission Expires: 10-17-81

(SEAL)